

REMARKS

Claims 1-3 are pending in the application. Claim 1 was rejected under 35 U.S.C. §102(e) as being anticipated by Dent. Claims 2 and 3 were indicated to be allowable. None of the claims is currently amended. Reconsideration is respectfully requested.

The presently claimed invention distinguishes Dent because an access point employs characteristics of messages received from other access points to select a channel. Dent specifically teaches selecting a channel based on signal strength.¹ In contrast, the presently claimed invention ascertains whether the apparatus should commence communications with other wireless devices on the selected channel based at least in-part upon **characteristics of the messages** received on the channel. The Office asserts that this feature is taught by Dent at Col. 4, lines 12-23. Apparently the Office interprets decoding paging channels as a message characteristic, but that interpretation is incorrect because Dent specifically states that the paging channels are decoded for the purpose of measuring the signal strength of the paging channels.² In a network where devices adjust their transmission power and the characteristic of the message includes an indication of power backoff,³ the Dent technique would be incapable of taking that power backoff into account for channel selection. Therefore, claim 1 distinguishes Dent by reciting “logic for ascertaining whether the apparatus should commence communications with other wireless devices on the selected channel based at least in-part upon **characteristics of the messages** received on the channel, and such that unnecessary channel overlap with the other access points is mitigated.” (emphasis added)

¹ See, e.g., Abstract

² Col. 4, lines 23-25

³ See, for example, specification section 2.a.1.3 beginning at page 32

In addition to the distinction discussed above, it should be noted that the passages of Dent cited by the Office teach how a satellite phone can perform background scanning to select a channel with the **strongest** signal, whereas the presently claimed invention would avoid the strongest signal because the ascertaining logic operates “such that unnecessary channel overlap with the other access points is mitigated.” In other words, the techniques of Dent and the claimed invention are nearly opposite. The Office attempts to remedy this shortcoming by stating that “it is inherent in frequency reuse systems that frequencies are chosen to specifically to reduce system interference.” Even assuming that is true, it is not taught by Dent, and what the Office also fails to consider is that such frequency selection has been done manually, with relatively static configuration. The presently claimed invention thus represents an improvement on the prior art because the frequency selection is automated.

For these reasons this application is now considered to be in condition for allowance and such action is earnestly solicited. The Examiner is encouraged to contact Applicant’s attorney to discuss any issues which might expedite allowance of this application.

Respectfully Submitted,

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Date

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